

YOUTH SERVICES POLICY

Title: Prison Rape Elimination Act (PREA) Next Annual Review Date: 03/11/2012	Type: C. Field Operations Sub Type: 2. Security Number: C.2.11
	Page 1 of 12
References: Prison Rape Elimination Act of 2003, Public Law 108-79; YS Policies A.1.4 "Investigative Services", C.1.3 "Crimes Committed on the Grounds of YS Facilities/Office Buildings and/or Properties", C.4.3 "Mandatory Reporting of Abuse and Neglect of Youth", C.4.6 "Securing Physical Evidence", and C.5.2 "Duty Officers and Reporting of Serious Incidents"; DYS Policy 10.29 "Reporting Child Abuse and Maltreatment of Juveniles"; ACA Standards 4-JCF-3D-01, 4-JCF-3D-02, 4-JCF-3D-03, 4-JCF-3D-04, 4-JCF-3D-05, 4-JCF-3D-06, 4-JCF-3D-07, 4-JCF-3D-08, 4-JCF-3D-09 (Performance-Based Standards for Juvenile Correctional Facilities), 2-7133-1 (Standards for Juvenile Probation and Aftercare Services)	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 03/11/2011

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish procedures for implementing the Prison Rape Elimination Act within Youth Services (YS).

III. APPLICABILITY:

All YS staff and youth, contract service providers, and volunteers.

IV. DEFINITIONS:

Abusive Sexual Contacts - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

Contract Facilities - For purposes of this policy, Contract Facilities are non-secure residential facilities that are contracted by YS to house and provide care and treatment to youth who are in the custody or under the supervision of YS.

Injurious Sexual Conduct - Injurious sexual conduct encompasses a range of behaviors including sexual harassment, sexual assault, or any conduct of a sexual nature whether with or without consent. Examples of injurious sexual conduct include, but are not limited to:

- Intentional touching for the purposes of sexual gratification;
- Exposing his or her genitals for purposes of sexual gratification;
- Soliciting or requesting another person to engage in sexual conduct;
- Forcing a victim to touch, directly or through clothing, another person's genitals, breast, groin, thighs, or buttocks;

- Oral sex;
- Sexual penetration with an object;
- Voyeurism; or
- Sexual intercourse.

Multidisciplinary Team (MDT) - A group of persons responsible for developing comprehensive case plans for youth.

Nonconsensual Sexual Acts - Contact of any person without his or her consent, or of a person who is unable to consent or refuse; and 1) Contact between the penis and the vagina or the penis and the anus, however slight; or 2) Contact between the mouth and the penis, vagina, or anus; or 3) Penetration of the anal or genital opening of another person by hand, finger, or other object.

Operations Group - An administrative group that provides oversight to agency operations. Membership includes the Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Undersecretary, Deputy Assistant Secretaries, Program Manager for Treatment Services, Family and Community Liaison, Director of Education, Counsel, and other persons as requested by the group. This group makes recommendations to the Deputy Secretary of YS.

PREA Committee - A committee of executive and senior management appointed by the Deputy Secretary to meet quarterly to discuss PREA related issues and incidents, initiating organizational improvement as necessary.

Prison Rape Elimination Act (PREA) - An Act signed into law by President George W. Bush in September 2003. This legislation requires the Bureau of Justice Statistics (BJS) to initiate new national data collections on the incidence and prevalence of sexual violence within correctional facilities. PREA defines four categories of sexual abuse for purposes of data collection: abusive sexual contacts, nonconsensual sexual acts, staff sexual harassment and staff sexual misconduct.

Sexual Assault - Includes all acts of a sexual nature that constitute Nonconsensual Sexual Acts and Abusive Sexual Contacts. Sexual assault also includes sexual coercion and sexual solicitation as defined in this policy.

Sexual Assault Liaison - A management staff designated by the Facility Director or Contract Provider to coordinate response, reporting, monitoring and follow-up to incidents of youth sexual assault within that facility. The Sexual Assault Liaison will be assigned as the Sexual Assault Response Team Leader at that location.

Sexual Assault Response Team (SART) - The SART is composed of one representative from Mental Health, Medical, Investigations, and the facility administration. The SART will respond immediately to the needs of an alleged victim.

Sexual Coercion - The use of debt, threats of physical harm, peer pressure, deceit, personal favors, or positional authority to force or lure sexual favors.

Sexual Victim - Any youth, who through documented evidence, has suffered sexual coercion, sexual solicitation or sexual assault by another youth or a staff member during the immediate incarceration.

Sexually Aggressive Youth - A youth with a case history of committing sexual assault, or coercing sex in exchange for protection or other favors within the secure care setting.

Staff - For purposes of this policy, staff includes YS employees, contract service providers, and volunteers.

Staff Sexual Harassment - Repeated verbal statements or comments of a sexual nature to youth by staff, visitors, or agency representatives, including: 1) demeaning references to gender or derogatory comments about body or clothing; 2) profane or obscene language or gestures; or 3) staff engaging in inappropriate conversation about sexual behavior with youth outside of the scope of their normal duties.

Staff Sexual Misconduct - Any behavior or act of a sexual nature directed toward youth by staff, visitors, or agency representatives. Romantic relationships between staff and youth are included as misconduct. Consensual or nonconsensual sexual acts include: 1) Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, arouse, or gratify sexual desire; or 2) completed, attempted, threatened, or requested sexual acts; or 3) occurrences of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.

Vulnerable Youth - A youth who is at high risk to become a victim of sexual assault by another youth due to characteristics related to age, physical stature, criminal history, and physical or mental disabilities, or past history of being victimized.

Youth/Juvenile - Any person under the jurisdiction of the Louisiana Department of Public Safety and Corrections, Youth Services, regardless of age or reason for placement.

Youth-On-Youth Sexual Violence - All occurrences of nonconsensual sexual acts and abusive sexual contacts involving youths in non-secure custody.

V. POLICY:

Youth Services is committed to a zero-tolerance standard for sexual assault. The purpose of this policy is to describe how the Prison Rape Elimination Act (PREA) shall be implemented within YS. This policy provides uniform guidelines and procedures to reduce the risk of sexual assault and sexual activity within both YS secure care and contracted facilities.

VI. GENERAL STANDARDS:

- A. YS shall aggressively respond to, investigate, and support the prosecution of injurious sexual conduct in secure care and contracted facilities, both internally and externally in partnership with law enforcement and the courts.
- B. Through continual education of staff and youth, YS shall increase awareness of safe reporting mechanisms and available services to victims; thereby, creating facility cultures that discourage sexual aggression and injurious sexual conduct.
- C. Through assessment, room assignment, and improvements to facility architecture, where feasible, YS shall identify opportunities to separate and carefully monitor both sexually aggressive and vulnerable youth to reduce the incidence of injurious sexual conduct.
- D. YS shall establish data collection systems to accurately track injurious sexual conduct and annually incorporate 'lessons learned' into improved operations and services toward a sustainable zero-tolerance standard through the PREA Committee. Contract facilities shall be required to report PREA data in their annual report, as specified in the 2010 Standard Operating Procedures for Non-Secure Care.

VII. YOUTH ORIENTATION/ADMISSION:

- A. Upon admission to a secure care or contracted facility, youth shall receive written information about:
 - 1. How to avoid risky situations related to sexual assault;
 - 2. How to safely report rape or sexually inappropriate behavior;
 - 3. How to obtain counseling services and/or medical assistance if victimized; and
 - 4. What the risks and potential consequences are for engaging in any type of sexual contact while in the facility.
- B. As part of the orientation/admission process to a secure care or contracted facility, staff shall show the OJJ designed power point presentation to all youth covering the same issues listed in section A. above. Probation and Parole staff shall show the power point presentation to all youth who are pre secure or pre non-secure. Additionally, both secure care and Probation and Parole staff shall process with youth the information that was provided in the power point.

- C. When a youth is transferred from one secure care facility to another secure care facility, the youth shall be briefed on the presentation described in section B. above during the orientation/admission process, to ensure that the youth understands and is familiar with PREA.
- D. For secure care youth, staff shall ensure that the youth signs a Confirmation of Receipt [Attachment C.2.11 (a)] during the orientation/admission process, and file it in the youth's hard copy Master Record under Clip VIII. For youth being placed in contract facilities, Probation and Parole (PPO) staff shall ensure that the youth signs the receipt which shall be placed in the youth's case record maintained in the local Regional Office in Clip IV.

VIII. ASSESSMENT AND HOUSING:

- A. Facility Directors and Contract Providers shall provide safe housing assignments, work assignments, and education assignments for every youth in order to reduce the likelihood of sexual assault while the youth is in YS custody.
- B. Facility Directors and Contract Providers shall consider the vulnerability of all youth at the time of admission and prior to living area assignment, thereby reducing the risk of sexual assault against those youth who are most at risk, or by those youth most likely to perpetrate such a crime. Youth shall be re-evaluated by their Case Manager during the Monthly Assessment of IIP Progress to determine if the housing area assignment continues to meet their needs.

1. Vulnerable Youth

Upon Direct Admission, staff shall evaluate all youth specifically to determine their vulnerability to sexual assault as indicated by the following risk factors:

- a. age;
- b. physical stature;
- c. developmental disability;
- d. mental illness;
- e. sex offender status, (per criminal history);
- f. first time offender status, (first time in custody);
- g. past history of victimization;
- h. gender identity; and
- i. sexual orientation.

2. Sexually Aggressive Youth

Upon admission, staff shall evaluate all youth specifically to determine if there are indications that a youth is prone to victimize other youth, especially in regard to sexual behavior, including the following:

- a. history of sexually aggressive behavior;
- b. history of violence, especially if related to a sex offense with same gender victim;
- c. history of uncontrollable anger;
- d. anti-social attitudes indicative of sexually aggressive behavior;
- e. number of victims;
- f. duration of sexual abusive behavior;
- g. demonstrated empathy for others or remorse for inappropriate behaviors; and
- h. youth's willingness to change his behavior.

IX. SECURE CARE AND CONTRACT FACILITIES RESPONSIBILITIES:

- A. Professionally trained staff shall help prevent injurious sexual conducts by acting in the following manner during the performance of their duties:
 1. Know and enforce rules/policy/procedures regarding sexual conduct of youth.
 2. Maintain professionalism at all times.
 3. Treat any allegation of injurious sexual conduct seriously and follow appropriate reporting procedures, as outlined in Sections XI, XII and XIII of this policy.
- B. Staff must recognize that injurious sexual conduct can occur in virtually any area in a facility. Sound practice includes conducting frequent, random area checks, providing direct staff supervision whenever possible, and maintaining an open line of communication with youth.
- C. Staff must be aware of warning signs that might indicate that a youth has been sexually assaulted or is in fear of being sexually assaulted. Warning signs include, but are not limited to: isolation, depression, lashing out at others, refusing to shower, suicidal thoughts or actions, seeking protection, and refusing to leave isolation/time-out rooms.
- D. Staff must be aware of potential sexually aggressive behavior. Characteristics or warning signs may include a prior history of committing sex offenses, use of strong arm tactics (extortion), associating or pairing up with youth who meet the profile of a potential victim, exhibiting voyeuristic/exhibitionistic behavior and demonstrated inability to control anger.

X. STAFF DEVELOPMENT:

- A. All staff shall be trained on how to recognize the signs of injurious sexual conduct, and understand their responsibility in the detection, prevention, investigation, and reporting of injurious sexual conduct during new employee orientation and annual in-service training. Training topics shall consist of, but not be limited to, the following:
 - 1. Abusive sexual contacts;
 - 2. Nonconsensual sexual acts;
 - 3. Sexual assault;
 - 4. Sexual coercion;
 - 5. Staff sexual harassment;
 - 6. Staff sexual misconduct; and
 - 7. Youth-on-youth sexual violence.
- B. Members of the SART shall receive special training in regard to victim response as necessary, from the Central Office Treatment Director.
- C. The Central Office Director of Staff Development shall be responsible for the development and dissemination of lesson plans for new employee orientation and annual in-service training.
- D. The Deputy Assistant Secretary for Community Based Services shall be responsible for implementing training in the contract facilities.
- E. The Deputy Assistant Secretary for Facilities shall be responsible for implementing training in the secure care facilities.

Each employee shall be required to sign a copy of Attachment C.2.11 (b) "Staff Confirmation of Receipt". Signed receipts shall be forwarded to Central Office Human Resources for filing in the employee's personnel file.

XI. CONFIDENTIALITY, REPORTING, PROTECTION:

- A. Confidentiality
 - 1. Youth who report information to staff that they have been or that they have knowledge of another youth who has been the victim of injurious sexual conduct, do so with the understanding that YS and/or Contract Facilities will contact law enforcement in such cases.
 - 2. All information provided by youth to staff shall be subject to verification by IS investigators and/or law enforcement. Information provided in confidential communications to staff shall be shared consistent with, and in accordance to, the standards required by state statute, professional licensure, and ethical standards.

3. When interviewing youth concerning injurious sexual conduct, IS staff shall inform youth of any limits to confidentiality prior to conducting the interview.
4. Under no circumstances should access to treatment resources be denied to a youth victim because the youth will not fully disclose details to IS staff and/or law enforcement.

B. Reporting

1. Access to services for the victim of injurious sexual conduct shall not be dependent on the victim's willingness to report or provide testimony. In large measure; however, reporting of injurious sexual conduct by youth is critical to the timely delivery of necessary services to the victim, and to holding perpetrators accountable.
2. Staff shall encourage youth to report when either of the following conditions exists:
 - a. the youth has been or is currently a victim of injurious sexual conduct while in YS custody.
 - b. the youth has knowledge of injurious sexual conduct having occurred or currently occurring in a YS secure care or contract facility.
3. When a youth reports injurious sexual conduct to staff, staff shall, except as noted in Section XII of this policy, contact his/her Supervisor/Manager, and in the case of contract facilities, the Supervising PPO. The Supervisor/Manager and/or Supervising PPO shall immediately notify the Facility Director/Regional Manager, and initiate action, as appropriate to reduce/eliminate:
 - a. immediate harm to the victim or reporter; and
 - b. damage to potential crime scenes or evidence.
4. In accordance with YS Policy C.2.6 and facility Standard Operating Procedures, secure care facility staff shall initiate an Unusual Occurrence Report (UOR) [C.2.6 (b)] and notify Investigative Services (IS) / law enforcement in accordance with local procedures, except as noted in Section XIII of this policy.

In accordance with YS Policy C.4.3, a "Notification and Report of Abuse/Neglect Occurrences" [C.4.3 (b)] shall be filed with the local office of the Child Protection Unit, Department of Social Services (DSS) by the youth's Case Manager.

In accordance with DYS Policy 10.29, the supervising PPO/J shall notify the parish Office of Children's Services of the incident(s).

C. Protection of Youth Victims and Reporters

Youth Services and Contract Providers shall protect youth victims and reporters of injurious sexual conduct from retribution from the perpetrator or others, commencing from when the allegation is made until such time as the threat has passed.

XII. STAFF RESPONSE TO INCIDENTS OF INJURIOUS SEXUAL CONDUCT:

- A. Youth shall be encouraged to immediately report injurious sexual conduct to any staff member. Upon notification by a youth that he/she has been the victim or upon witnessing an incident of injurious sexual conduct, the staff shall immediately:
1. Ensure the youth victim is safe and kept separated from the offending aggressor;
 2. Notify his/her Supervisor/Manager and/or Supervising PPO.
 3. Ensure the youth victim does not douche, defecate, urinate, smoke, change clothes, wash in any way, shower, eat, or drink until after evidence collection;
 4. Secure the incident area and treat it as a crime scene in accordance with YS Policy A.1.4 "Investigative Services" and YS Policy C.4.6 "Securing Physical Evidence", until released;
 5. Notify/access appropriate health services of the sexual assault. Health services staff shall provide appropriate treatment without compromising evidence); and
 6. Immediately notify IS and/or law enforcement.
- B. The Supervisor/Manager shall notify and brief the Facility Director and the supervising PPO. The supervising PPO shall notify and brief the Regional Manager. Notification shall also be made to the Central Office Duty Officer and Deputy Secretary in accordance with YS Policy C.5.2 "Performance Data and Information".
- C. YS staff must report observations or suspicions of injurious sexual conduct. Reporting is **mandatory** and shall be accomplished by advising a supervisor, and by completing an Unusual Occurrence Report (UOR), or by following the exception for reporting in Section XIII below. In addition, staff may also report allegations on the agency Investigative Services Hotline, at 1-800-626-1430.
- D. Failure to report shall result in disciplinary action.

XIII. EXCEPTIONS FOR REPORTING:

If an employee has confidential information regarding injurious sexual conduct they may report that information directly to an IS investigator within 24 hours of their knowledge of the information. The IS investigator shall retrieve a UOR form from the employee at that time. The IS investigator shall confidentially document the information and report it directly to the Central Office Director of IS.

XIV. INVESTIGATING COMPLAINTS OF SEXUAL ACTIVITY:

- A. Staff receiving a report containing allegations of injurious sexual conduct that meet PREA requirements shall immediately transmit this report to IS to be investigated, following the protocol described in the Investigative Services Handbook.
- B. IS investigators are members of SART, and as such, shall ensure that the victims receive medical and support services.
- C. All PREA investigations that result in a finding of criminal activity shall be referred to the District Attorney for prosecution.

XV. VICTIM SERVICES:

Access to medical and mental health services for victims of injurious sexual conduct shall be handled in accordance with the contracted health care provider's policies.

YS and contractors in the community shall implement protocol for immediate and on-going victim services in response to allegations of injurious sexual conduct. The attached Sexual Assault Response Team (SART) protocol, developed by OJJ shall be utilized within the secure care facilities [see Attachment C.2.11 (d), to ensure comprehensive and immediate response to the needs of an alleged victim. The SART shall meet within 72 hours of a youth alleging to have been a victim of injurious sexual conduct.

If the youth is in a secure care facility, and feels comfortable with an employee who is not a member of the SART, that person may also be appointed to that particular SART for that youth.

It is the responsibility of the SART to discuss the needs and welfare of the victim, and make recommendations concerning his/her safety, as well as the medical and mental health needs or concerns and follow-up needed in these areas. Responsibilities of the SART also include making recommendations concerning the perpetrator and other involved youth. The recommendations shall be forwarded to the Facility Director.

The SART shall meet regularly to review overall team responses and review areas of possible improvement, including suggested revisions in policy and protocol.

Any youth involved in a PREA incident shall have an Alert placed in his/her JETS record to ensure proper placement and monitoring of the youth, as well as appropriate services as needed. This includes any sexual act where the youth was a victim or perpetrator prior to, or after, secure or non secure placement with the Office of Juvenile Justice. Alerts shall be entered into JETS as follows:

1. The Director of IS shall place the PREA Alert for youth in a secure care facility as appropriate upon completion of an investigation report.
2. The assigned PPO shall place the PREA Alerts for youth under their supervision based upon their social history.
3. For youth in secure care, the youth's Counselor/Case Manager shall place PREA Alerts based on the youth's social history if an Alert was not entered during the Direct Admission process.
4. Medical staff shall immediately communicate to a youth's Case Manager/Counselor knowledge of a youth's involvement in a PREA incident. The Case Manager/Counselor shall be responsible for placing a PREA Alert based on the obtained information.

A description of the PREA Alert by the person making the entry is required to be entered in JETS in order for the Alert to be saved in the system.

XVI. DATA COLLECTION AND COMPILATION:

- A. YS shall collect information related to the purposes outlined under Section XIV.e. of this policy; specifically to gather data that will help reduce the risk of injurious sexual conduct occurring within a YS secure care or contract facility.
- B. YS shall identify the specific data that must be collected to comply with the reporting requirements of the U.S. Department of Justice Survey on Sexual Violence and the PREA Commission Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities.
- C. This data shall be compiled by Central Office IS into monthly and annual reports for submission to the Deputy Secretary. The purpose of these reports is to:
 1. Establish a baseline of data documenting the prevalence of incidents involving injurious sexual conduct, as gleaned from all available sources.
 2. Provide information to the PREA Committee concerning where efforts are needed for the improvement of facility operations related to the reduction of injurious sexual conduct.

3. Document that there is accountability for those who perpetrate injurious sexual conduct by tracking:
 - a. the outcome of all injurious sexual conduct cases that were referred to the District Attorney, including the disposition of each case;
 - b. the status of investigations conducted by IS concerning suspected incidents of injurious sexual conduct;
 - c. referrals of injurious sexual conduct cases prosecution, including the status and outcome of such efforts within the judicial system;
 - d. documentation that victims of injurious sexual conduct received appropriate follow-up care as outlined in this policy;
 - e. documented action by secure care or contract facilities Multidisciplinary Team (MDT) concerning the case management of youth designated as sexually aggressive or vulnerable; and
 - f. information collected directly from the youth population by means of various survey methods which relates to the prevalence of injurious sexual conduct within the secure care or contract facilities, including the circumstances that contribute to this kind of behavior, in order to provide insight into potential strategies for its reduction or elimination.

XVII. DATA REVIEW:

The PREA Committee shall schedule a yearly conference of members of the Operations Group to:

1. review the data that has been collected pursuant to this policy;
2. make recommendations regarding needed changes to this policy; and
3. make recommendations to the Deputy Secretary regarding any changes needed in secure care facility operations and/or the SOP for contract facilities.

This does not preclude any member of the Operations Group from calling for a conference at any time to make recommendations regarding changes to this policy, operational changes at YS secure facilities, or SOPs for contract facilities.

Previous Regulation/Policy Number: C.2.11

Previous Effective Date: 7/13/09



Attachments/References: C.2.11 (a) Youth Confirmation of Receipt - 3-11.docx



C 2 11 (b) Staff Confirmation of Receipt PREA 3-11.docx



C 2 11 (c) Contract Provider Volunteer Confirmation of Receipt PREA 3-11.docx C.2.11 (d) SART Team Protocol 3-11.docx